IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 27TH FEBRUARY 2007 / 8TH PHALGUNA 1928

Crl.MC.No. 520 of 2007()

SC.844/2001 of ADDL.ASSISTANT SESSIONS COURT, KOLLAM

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PETITIONERS: ACCUSED

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1. UDAYAKUMAR, S/O.GOPALAKRISHNA PILLAI,
ANAYADIKIZHAKKATHIL VEEDU,
KALARI MURI, PANMANA VILLAGE,
KOLLAM.

2. GOPAKUMAR, S/O.SIVADASAN,
UDAYAN VEEDU, VADUTHALA MURI,
PUTHENCHANDA, PANMANA VILLAGE, KOLLAM.

3. BABU, S/O.RAGHAVAN NAIR,
KOYADI VEEDU, PADA VADAKKU MURI,
KARUNAGAPPALLY VILLAGE, KOLLAM.

BY ADV. SRI.DILEEP P.PILLAI

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 27/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.520 of 2007

Dated this the 27th day of February, 2007

ORDER

The petitioners are accused in S.C.No.844 of 2001 pending before the Additional Assistant Sessions Court, Kollam. That is a prosecution, inter alia, under Section 308 read with 149 I.P.C. On 25.01.2007 when the case was posted for trial, the petitioners did not appear before the learned Judge. An application filed on their behalf was rejected by the learned Judge. Thereafter warrants of arrest have been issued against the petitioners.

2. The petitioners are willing to surrender before the learned Judge. But the petitioners apprehend that their application for bail may not be considered by the learned Judge on merits, in accordance with law and expeditiously. They have, in these circumstances, come to this Court with a prayer to issue directions under Section 482 Cr.P.C to the learned Judge to release them on bail on that date when they appear and apply for bail.

3. I am not satisfied that there are any circumstances justifying the invocation of the powers under Section 482 Cr.P.C. It is for the petitioners to appear before the learned Judge and explain to the learned Judge the circumstances under which they could not

earlier appear before the Judge. I have no reason to assume that the learned Judge would not consider such application for bail on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

4. This Crl.M.C is, in these circumstances, dismissed. But with the specific observation that if the petitioners appear before the learned Judge and apply for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Judge must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself, unless there are exceptional and compelling reasons.

(R.BASANT, JUDGE)

rtr/-